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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN FRANCISCO DIVISION

SONOS, INC.,

*Plaintiff and Counter-defendant,*

v.

GOOGLE LLC,

*Defendant and Counter-claimant.*

Case No. 3:20-cv-06754-WHA

Consolidated with  
Case No. 3:21-cv-07559-WHA

**SONOS, INC.'S MOTION FOR  
LEAVE TO SUBMIT RESPONSE TO  
GOOGLE'S JUNE 6, 2023 PAPER**

Judge: Hon. William Alsup  
Courtroom: 12, 19th Floor  
Trial Date: May 8, 2023

1 Pursuant to Northern District of California Civil Local Rule 7-11, Sonos, Inc. (“Sonos”)  
2 hereby moves this Court for an order granting it leave to file a response to Google’s June 6, 2023  
3 Paper Regarding Conception and Priority Date (Dkt. 808) (“Google’s Paper”). Last week,  
4 Google sought, and was granted, leave to submit a response to one of Sonos’s papers concerning  
5 the written description issue. Dkt. 795 (order granting Google leave to file response). For  
6 similar reasons, Sonos seeks similar leave to file this response, attached hereto as Exhibit A.

7 In Google’s paper, Google has, for the first time in this case, explained its position on  
8 why it believes that the 2005 conception document evidences conception of the ’885/’966  
9 patents but the 2006 provisional application does not evidence the claimed priority date despite  
10 the 2006 provisional being nearly identical to the 2005 conception document. According to  
11 Google, this is the case because the 2005 conception document discloses the “overlapping”  
12 concept because it discloses a “morning” scene and an “all zone players” scene (*i.e.*, the “party  
13 mode” zone scene),<sup>1</sup> whereas the 2006 provisional application had removed the reference to  
14 “party mode” in the second sentence of the document. Google’s Paper at 10. According to  
15 Google, by removing this reference to “party mode,” Google claims that the 2006 provisional  
16 application no longer disclosed an “all zone players” zone scene. *Id.*

17 However, Google is incorrect that the 2006 provisional application fails to disclose an  
18 “all zone players” zone scene. Sonos seeks leave to file a three-page brief pointing out where the  
19 2006 provisional expressly discloses an “all zone players” zone scene and thus why, under  
20 Google’s own interpretation, which has now been set forth for the first time in this case, the 2006  
21 provisional supports the “overlapping” concept.

22 Google opposes this motion. In Google’s view, Google has already made the argument  
23 in the post-trial memoranda solicited by the Court that the 2006 provisional application allegedly  
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25 <sup>1</sup> Prior to Google’s Paper, Google had never explained its position on why it agreed that the 2005  
26 conception documents evidenced conception. Google’s new explanation is as follows: “the 2005  
27 conception documents provide support for the concept of overlapping zone scenes (*i.e.*, they  
28 disclose a user-configurable zone scene such as a morning scene that includes fewer than all  
zone players, as well as a party mode zone scene that includes all zone players, thereby  
necessarily disclosing an overlap between those zone scenes)....” Google’s Paper at 10.

1 fails to support the “overlapping” concept. Thus, according to Google, Sonos should have said  
 2 everything it wanted to say in response to these memoranda. But this is only half the story.

3 In Google’s June 6, 2023 Paper, Google, for the first time, set forth its explanation for  
 4 why the 2005 conception document evidences conception (not just why the 2006 provisional  
 5 application does not provide support). Specifically, Google stated:

6 [T]he 2005 conception documents provide support for the concept  
 7 of overlapping zone scenes (*i.e.*, they disclose a user-configurable  
 8 zone scene such as a morning scene that includes fewer than all zone  
 9 players, ***as well as a party mode zone scene that includes all zone  
 10 players, thereby necessarily disclosing an overlap between those  
 11 zone scenes***) . . .

12 Google’s Paper at 10 (emphasis added). The very next portion of that sentence contains an  
 13 inaccuracy; specifically:

14 . . . the 2006 provisional application contains ***no such disclosure***  
 15 and, thus, contains no written description of overlapping zone  
 16 scenes.

17 *Id.* (emphasis added). It is not accurate that the 2006 provisional “contains no such disclosure.”

18 Indeed, the 2006 provisional discloses an “all zone players” zone scene, which is the very  
 19 disclosure that Google has now, for the first time, admitted “necessarily disclos[es] an overlap.”

20 Accordingly, Sonos seeks leave to file the attached three-page response to address this inaccurate  
 21 statement and to explain why, under Google’s newly-conceded interpretation, the 2006  
 22 provisional supports the “overlapping” concept.

23 Dated: June 9, 2023

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 and  
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By: /s/ Clement S. Roberts

Clement Seth Roberts

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